

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Clarence E., Jr. & Regina K. Cross)
Dist. 1, Map 131, Control Map 131, Parcel 19.00) Morgan County
Farm Property)
Tax Year 2006)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

	<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
MKT.	\$236,000	\$500	\$236,500	\$ -
USE	\$ 39,800	\$500	\$ 40,300	\$10,075

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on March 29, 2007 in Wartburg, Tennessee. The taxpayers, Clarence and Regina Cross, represented themselves. The assessor of property, Gilford Wilson, represented himself.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of an unimproved 141.79 acre farm located at 382 Cedar Ridge Road in Oliver Springs, Tennessee. The parties are in agreement that the pole barn valued at \$500 is not on subject property and should be deleted from the property record card. Thus, the only issue before the administrative judge concerns the valuation of subject land.

The taxpayers contended that subject land should be valued at \$194,718 for market value purposes. In support of this position, the taxpayers argued that subject acreage should be appraised using a 100% condition factor rather than a 130% condition factor. The taxpayers asserted that the current appraisal of subject acreage does not achieve equalization given the 100% condition factor used to value their neighbor's property. The taxpayers noted that the neighbor borders a two lane road whereas subject property is on a gravel road accessed from a one lane road.

The assessor contended that subject acreage should remain valued at \$236,500. In support of this position, Mr. Wilson argued that the different condition factors reflect that the neighbor's property has a powerline running through the pasture and a gas line through the back portion of the property.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that subject land should remain valued at \$236,000 absent additional evidence from the taxpayers concerning the market value of subject land.

Since the taxpayer is appealing from the determination of the Morgan County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the taxpayer's equalization argument must be rejected. The administrative judge finds that the State Board of Equalization has historically adhered to a market value standard when setting values for property tax purposes. See *Appeals of Laurel Hills Apartments, et al.* (Davidson County, Tax Years 1981 and 1982, Final Decision and Order, April 10, 1984). Under this theory, an owner of property is entitled to "equalization" of its demonstrated market value by a ratio which reflects the overall level of appraisal in the jurisdiction for the tax year in controversy.¹ The State Board has repeatedly refused to accept the *appraised* values of purportedly comparable properties as sufficient proof of the *market* value of a property under appeal. For example, in *Stella L. Swope* (Davidson County, Tax Years 1993 and 1994), the Assessment Appeals Commission rejected such an argument reasoning as follows:

The assessor's recorded values for other properties may suffer from errors just as Ms. Swope has alleged for her assessment, and therefore the recorded values cannot be assumed to prove market value.

Final Decision and Order at 2.

The administrative judge finds that even if the taxpayer's equalization argument could be considered, additional evidence would be needed to establish a lack of equalization. Although the taxpayers stated that the powerline also traverses their property, it is unclear whether the properties are equally impacted. Moreover, Mr. Wilson's testimony indicates the neighbor's property is also adversely affected by a gas line.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

	<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
MKT.	\$236,000	\$ -0-	\$236,000	\$ -
USE	\$ 39,800	\$ -0-	\$ 39,800	\$9,950

¹ See Tenn. Code Ann. §§ 67-5-1604-1606. Usually, in a year of reappraisal – whose very purpose is to appraise all properties in the taxing jurisdiction at their fair market values – the appraisal ratio is 1.0000 (100%). That is the situation here.


It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 18th day of April, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Clarence E., Jr. & Regina K. Cross
Gilford (Biff) Wilson, Assessor of Property